

**EXHIBIT HH**

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SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ORACLE USA., INC., et al.,

Plaintiffs,

v.

SAP AG, et al.,

Defendants.

Case No. 07-CV-1658 PJH (EDL)

**DEFENDANTS' NOTICE OF  
DEPOSITION OF PLAINTIFFS  
PURSUANT TO FEDERAL RULE OF  
CIVIL PROCEDURE 30(b)(6)**

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT, pursuant to Rule 30(b)(6) of the Federal Rules of Civil  
 3 Procedure, Defendants SAP AG, SAP America (together, "SAP"), and TomorrowNow, Inc.  
 4 ("TN") (collectively, "Defendants") will take the deposition of Plaintiffs Oracle USA, Inc.,  
 5 Oracle International Corporation, Oracle EMEA Limited and Siebel System, Inc.'s (collectively,  
 6 "Plaintiffs") on December 1, 2009, commencing at 9:00 a.m. at the law offices of Jones Day,  
 7 1755 Embarcadero Road, Palo Alto, CA 94303.

8 The deposition will be recorded stenographically, using real time transcription, by a  
 9 certified court reporter, and by video and audio by a certified videographer.

10 Plaintiffs are hereby requested and required, pursuant to Federal Rule of Civil Procedure  
 11 30(b)(6), to designate and produce a witness or witnesses to testify on its behalf on the topics  
 12 described below.

### 13 SCOPE OF TESTIMONY

14 The applicable time period for each of the topics below is January 1, 2002 through the  
 15 present.

16 1. Plaintiffs' allegations related to TN's downloading activity, including specifically  
 17 the "downloads, the licensing related to those downloads, [and the] mapping of the two," in the  
 18 context referenced in the third paragraph on page 1 of Zac Alinder's October 13, 2009 letter to  
 19 Scott Cowan, attached as Exhibit "A" hereto.

20 2. Plaintiffs' position regarding which specific downloads made by TN were covered  
 21 by each of TN's customers' licenses and all methods Plaintiffs have used to determine their  
 22 position regarding which downloads each TN customer was permitted to make and which  
 23 downloads each TN customer was not permitted to make.

24 3. Any and all efforts made, and any and all conclusions reached during those efforts,  
 25 by Plaintiffs "to map downloads to specific Oracle applications software on the license  
 26 agreements that Oracle produced for all of the TomorrowNow customers and all of the  
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1 SAP/TomorrowNow overlap customers,” as described in the second full paragraph of page 2 of  
2 Zac Alinder’s October 13, 2009 letter to Scott Cowan, attached as Exhibit “A” hereto.

3 4. Plaintiffs’ “conclusions,” which are purportedly reflected in each of Oracle’s  
4 Complaints, including but not limited to the Fourth Amended Complaint, related to TN’s  
5 downloads, the licensing related to those downloads, and the mapping of the two, as described in  
6 the second full paragraph of page 2 of Zac Alinder’s October 13, 2009 letter to Scott Cowan,  
7 attached as Exhibit “A” hereto.

8 5. The relationship between Plaintiffs’ production of “Oracle’s license agreements,  
9 support renewals, and customer reports” and TN’s downloads, the licensing related to those  
10 downloads, and the mapping of the two, as described in the first bullet point on page 2 of Zac  
11 Alinder’s October 13, 2009 letter to Scott Cowan, attached as Exhibit “A” hereto.

12 6. The relationship between Plaintiffs’ production of “Oracle’s logs showing  
13 Defendants’ [alleged] illegal access to and downloading of Oracle’s support materials” and TN’s  
14 downloads, the licensing related to those downloads, and the mapping of the two, as described in  
15 the first full bullet point on page 3 of Zac Alinder’s October 13, 2009 letter to Scott Cowan,  
16 attached as Exhibit “A” hereto.

17 7. The relationship between Plaintiffs’ production of “Oracle’s Customer Connection  
18 back-end database servers and PeopleSoft C1 support tables” and TN’s downloads, the licensing  
19 related to those downloads, and the mapping of the two, as described in the second full bullet  
20 point on page 3 of Zac Alinder’s October 13, 2009 letter to Scott Cowan, attached as Exhibit “A”  
21 hereto.

22 8. The relationship between Plaintiffs’ production of the “support materials that  
23 Defendants’ counsel downloaded” during Defendants’ inspection and access to Customer  
24 Connection and TN’s downloads, the licensing related to those downloads, and the mapping of  
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1 the two, as described in the third full bullet point on page 3 of Zac Alinder's October 13, 2009  
2 letter to Scott Cowan, attached as Exhibit "A" hereto.

3 9. The relationship between Plaintiffs' production of "the mapping information and  
4 system code documents produced both in Oracle's document production in early 2008 and  
5 detailed in Oracle's response to Defendants' Interrogatory No. 7 and its incorporated Exhibit" and  
6 TN's downloads, the licensing related to those downloads, and the mapping of the two, as  
7 described in the fourth full bullet point on page 3 of Zac Alinder's October 13, 2009 letter to  
8 Scott Cowan, attached as Exhibit "A" hereto.  
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10  
11 Dated: November 2, 2009

JONES DAY

12  
13  
14 By: /s/ Scott W. Cowan  
Scott W. Cowan

15 Counsel for Defendants  
16 SAP AG, SAP AMERICA, INC., and  
17 TOMORROWNOW, INC.  
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**PROOF OF SERVICE**

I, Laurie Paige Burns, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 California Street, 26th Floor, San Francisco, California 94104. On November 2, 2009, I served a copy of the attached document(s):

**DEFENDANTS' NOTICE OF DEPOSITION OF PLAINTIFFS  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 30(B)(6)**

- ☒ by hand delivery
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- ☒ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Donn Pickett, Esq.  
Geoffrey M. Howard, Esq.  
Zachary J. Alinder, Esq.  
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Executed on November 2, 2009, at San Francisco, California.

By: 

Laurie Paige Burns